

REMARKS

In the Office Action mailed July 28, 2009 the Office noted that claims 1-18 were pending and rejected claims 1-20. Claims 2, 16, 19 and 20 have been amended, no claims have been canceled, claim 21 is new, and, thus, in view of the foregoing claims 1-21 remain pending for reconsideration which is requested. No new matter has been added. The Office's rejections and objections are traversed below.

CLAIM OBJECTION

Claim 16 stands objected to for informalities. In particular, the Office asserts that the claim broadens rather narrows the claim it depend from. The Applicants have amended claims 2 and 16 to overcome the objection. The applicants submit that no new matter is believed to have been added by the amendment of the claims.

Withdrawal of the objection is respectfully requested.

REJECTIONS under 35 U.S.C. § 112

Claims 19-20 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

In particular, the Office asserts it is unclear which direction the break occurs in.

The Applicants have amended the claim to overcome the rejection. Support for the amendment may be found, for example, in claim 2. The Applicants submit that no new matter is believed to have been added by the amendment of the claims.

Withdrawal of the rejections is respectfully requested.

REJECTIONS under 35 U.S.C. § 103

Claims 1-18 stand rejected under 35 U.S.C. § 103(a) as being obvious over Dronzek, WO 93/09925 in view of Hakansson, U.S. Patent Publication No. 2002/0139707 in further view of Sloan, U.S. Patent No. 5,850,940 or Kieras, U.S. Patent No. 6,588,178. The Applicants respectfully disagree and traverse the rejection with an argument.

Dronzek discusses rolls suitable for printing and forming at high rates of production of blown or injection in-mold labeled plastic container.

Hakansson discusses a dispenser for keeping and dispensing earplugs.

Sloan discusses a container shaped with an animal head that can dispense a first product and a second product.

Kieras discusses squeezable plastic tubes which have a flip-top closure cap with a finger recess are provided by a method which aligns indicia on labeling of the tube with the finger recess.

Generally in response to the application of Droznek, it

is not directed to injection molding at all, but to blow molding. Throughout Droznek reference is made to blow molding or in some instances only molding. However, it is nowhere indicated that the passages when using only molding should refer to any thing else but blow molding. Special attention is directed to page 1, lines 3-5. The only passage wherein injection molding is mentioned is in the background art section wherein a multitude of different packages and bottles for different use is exemplified (see page 1, line 11-19).

On page 4 of the Office Action it is asserted that Droznek, col. 12, lines 30-33 discloses "a label applied simultaneously with the injection molding."

However, Droznek does not disclose injection molding. Further, no where in the cited passage is mention made to injection molding. Further, on page 12 in Dronzek, wherein deviations from the preferred embodiments for the use of the in mold labeling technique, is it described that the in mold labeling described in Droznek may be used for a wide variety of different products from different materials "formed by blow molding" (see page 12, lines 14 - 29). Hence, the skilled person reading Dronzek should not consider using any other technique but blow molding for the in mold labeling of plastic containers. The basic principles of blow molding respectively injection molding are so different that the skilled person can not easily transfer process steps or process parameters from one technique to

another. Hence, since Dronzek is directed to blow molding and not injection molding, Dronzek is thus not relevant to the present invention since it actually discloses another technique for the inmold labeling process.

Further, the Office asserts that the axial direction in the present application corresponds to the machine direction of Dronzek. In Dronzek this elongation at break in the machine direction is 160 %. Hence, there is a rather large difference (more than 2 times) between these values and we see no manner in which a person of ordinary skill in the art should decrease this parameter rather drastically from the teachings in Dronzek since it is not disclosed as an essential parameter or that this parameter preferably should be lowered. Hence, nothing indicates for the skilled person such a change of the properties of the label material such that the label should end up within the claimed range of the elongation at break in the axial direction (corresponding to the machine direction of Dronzek). Further, if one was to do so, a great amount of experimentation would be required to come to the elongation at break in the machine of the present claims.

Further, on page 4, of the Office Action, the Office asserts that 'Droznek et al. overlaps the claimed range as shown above, the container of Droznek et al. is considered to be thin walled."

However, there is no correlation between the thickness of the label and the container. In addition thin walled containers are usually made by blow molding and not injection molding due to the difficulties in making thin walled injection molded products.

In summary, Dronzek is directed to blow molding which is a process very different from injection molding why the skilled person in the art not can transfer teachings from one field to another without making modifications based on extensive research. For example, the forces acting on a label during in mold labeling under injection molding conditions is completely different from the forces acting on a label during in mold labeling under blow molding conditions.

As Droznek is directed to blow molding, it is respectfully submitted that the desired properties of a label to be used during injection molding is completely different, or in other words, not derivable from a blow molding process. Thus, the person of ordinary skill could not easily know what properties are necessary for a label intended to be used in an injection molding process.

On page 5 of the Office Action, it is asserted that Dronzek and Hakansson are analogous because they discuss containers comprised of labels made simultaneously by injection molding". Since as discussed above, Dronzek teaches away from the

use of injection molding, one of ordinary skill in the art would not have combined Dronzek and Hakansson.

On page 5 of the Office Action, the Office asserted that the combination of Droznek and Hakansson would be expected to be intrinsically "squeezable." However, there is no indication that the containers in Dronzek are squeezable. Such an assertion is respectfully rebutted. If the Office is taking Official Notice of such a fact, the Applicant respectfully state that at the time of the invention, it was not well know in the art that blow molding as in Droznek, produced squeezable tubes and request support for such an assertion.

On page 6 of the Office Action, it is asserted that Sloan discloses a thin walled, squeezable container made by injection molding. However, there are a number of different methods, materials and properties for different parts disclosed. The combination selected by the Office is made without anything indicating that this combination should be preferred or even possible at the time of the publication. Hence, it is not explicitly mentioned that the main body may be thin walled and squeezable when made by injection molding. The Office is only combining the teachings so as to provide a hindsight analysis disclosing the desired elements. As already argued, it is not considered possible to injection mold such an advanced structure with thin walls as described for the main body portion, e.g., a pig shaped body. Even today, it takes a lot of skill to

produce simple thin walled articles such as a tube and those shapes described in Sloan are thus not considered possible or likely to have been produced by injection molding.

On page 6 of the Office Action, it is asserted that Kieras discloses a tube corresponding to a product according to the claim of the present invention. Further, in the paragraph spanning pages 6 and 7 it is asserted that that the product made in Kieras is the same as the claimed invention since the process limitations not are considered to render any difference between the products. However, there are certain inherent properties or features of an injection molded tube which makes the product possible to distinguish from other tubes, e.g., an injection molded tube does not comprise any seam or the like mark from the addition of the tube shoulder since the tube is molded in one piece. Hence, there is a possibility to distinguish an injection molded tube from tube made from extrusion processes or blow molding.

Further, in labeling of the product is it also easy to recognize a tube with an in mold labeling applied label since the label is at the same level as the outer surface of the tube. If the label is applied afterwards there is always a small edge or the like present. Hence, one of ordinary skill in the art may easily recognize this difference and the product made according to the present invention actually differs from a tube as disclosed in Kieras such that one of ordinary skill in the art

may easily decide whether or not the tube itself is injection molded or not and if the label was applied by an in mold labeling technique or not.

The Applicants respectfully state for the reasons discussed above, the process of Droznek or Droznek in combination with the other references is of such a difference, that one of ordinary skill in the art would not have used such a process to produce the product of the present claims.

In conclusion, Dronzek is not directed to injection molding but blow molding; Dronzek does not disclose an elongation at break in the axial direction (corresponding to machine direction in Dronzek) less than 70 % but of 160 %; and Dronzek does not disclose a thin walled container.

For at least the reasons discussed above, Droznek, Hakansson and Sloan, taken alone or in combination, fail to render obvious the features of claim 1 and the claims dependent therefrom.

Withdrawal of the rejections is respectfully requested.

NEW CLAIM

Claim 21 is new. Support for the claim may be found, for example, in claim 1. It is submitted that no new matter is believed to have been added by the inclusion of claim 21. The Claim is allowable for the reasons discussed above.

SUMMARY

It is submitted that the claims satisfy the requirements of 35 U.S.C. §§ 112 and 103. It is also submitted that claims 1-21 continue to be allowable. It is further submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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